



FILED IN DISTRICT COURT
OKLAHOMA COUNTY

IN THE DISTRICT COURT IN AND FOR OKLAHOMA COUNTY
STATE OF OKLAHOMA

NOV - 2 2020
RICK WARREN
COURT CLERK

AMY GUSTAFSON,

Plaintiff,

vs.

ALLSTATE VEHICLE AND PROPERTY
INSURANCE COMPANY

Defendant.

112

Case No: CJ-2020-2227

Judge Don Andrews

ANSWER

COMES NOW Defendant, Allstate Vehicle and Property Insurance Company, and for its Answer to the Petition of Plaintiff states and alleges as follows:

1. Admitted.
2. Admitted.
3. Defendant is without sufficient knowledge to admit allegations contained therein and demands strict proof thereof.
4. Defendant is without sufficient knowledge to admit allegations contained therein and demands strict proof thereof.
5. Defendant denies allegations contained therein and demands strict proof thereof.
6. Defendant denies allegations contained therein and demands strict proof thereof.
7. Defendant denies allegations contained therein and demands strict proof thereof.

8. Defendant denies allegations contained therein and demands strict proof thereof.

9. General denial of negligence.

10. General denial of breach of damages.

11. General denial of malice or punitive damage.

12. General denial of any action of Defendant amounted to any bad faith.

13. General denial of damages and nature and extent of same.

AFFIRMATIVE DEFENSES

14. This claim was not promptly reported as stated in the Petition, since it was not reported until approximately seven (7) months after Plaintiff's alleged loss.

15. Statute of limitations.

16. Plaintiff has failed to state a cause of action against Defendant upon which relief can be granted.

17. Pre-existing condition.

18. Defendant inspected the roof, and documented any claim of damages and those claims of damages fell within Plaintiff's deductible.

19. Punitive damages are in violation of the U.S. and Oklahoma Constitutions, as it amounts to the unlawful taking of property of others, there are no facts in this case that would support or warrant punitive damages, and such claims should be dismissed.

20. The actions of Defendant does not warrant bad faith or punitive damages, as they inspected the roof and reported what was found, and if Plaintiff's

inspector found anything different, then there is a legitimate dispute, and legitimate disputes do not warrant bad faith.

21. Discovery has not yet commenced nor completed, and Defendant reserves the right to amend its Answer and Affirmative Defenses upon completion of discovery.

WHEREFORE, having answered the Petition of Plaintiff, Defendant prays that Plaintiff take nothing by way of her Petition, and this Defendant be awarded its attorney fees, cost, and any other relief that this Court deems just and equitable.

Respectfully Submitted,

SMILING, SMILING & BURGESS

By



A. MARK SMILING, OBA# 10682

Bradford Place, Suite 300

9175 South Yale Avenue

Tulsa, Oklahoma 74137

(918) 477-7500

(918) 477-7510 *facsimile*

sf@smilinglaw.com

Attorney for Defendant

CERTIFICATE OF MAILING

I hereby certify that on the 27 day of Oct., 2020, the above and foregoing instrument was mailed, with proper postage thereon fully prepaid, to:

Zachary K. Housel, OBA# 32802

North Robinson Ave, 21st Floor

Oklahoma City, OK 73102

(Attorney for Plaintiff)

AMS/dmg
44.5521